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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,671	03/24/2004	Udo Klein	42841-8005.US01 [2003P009]	6228
22918	7590	08/08/2007	EXAMINER	
PERKINS COIE LLP P.O. BOX 2168 MENLO PARK, CA 94026			PANNALA, SATHYANARAYAN R	
			ART UNIT	PAPER NUMBER
			2164	
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			08/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/808,671

Applicant(s)

KLEIN ET AL.

Examiner

Sathyanarayan Pannala

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-12,15-17,19,21,22,25,28,29 and 35-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-12,15-17,19,21,22,25,28,29 and 35-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Applicant's Amendment filed on 5/24/2007 has been entered with amended claims 1, 4-12, 15-22, 25, 28 and 29, newly added claims 35-38 and cancelled claims 2-3, 13-14, 26-27. In this Office Action, claims 1, 4-12, 15-17, 19, 21,22, 25, 28, 29, and 35-38 are pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 12 and 25 are rejected under 35 U.S.C. 112, second paragraph, The term "attempting" in claims 1, 12 and 25 is a relative term which renders the claim indefinite. The term "attempting" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Attempting to set the new lock is a continuous effort and it is not effective.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. § 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1, 4-11, 25, 28- 29, and 35-38 are rejected under 35 U.S.C. § 101, because none of the claims are directed to statutory subject matter. Independent claims 1, 25 and 35 merely claiming functional descriptive material, i.e., abstract ideas. Even when a claim that recites a computer that solely calculates a mathematical formula or a computer disk that solely stores a mathematical formula is not directed to the type of statutory subject matter eligible for patent protection. The claims are not producing useful, concrete and tangible results. See *Diehr*, 450 U.S. at 186 and *Gottschalk v. Benson*, 409 U.S. 63, 71-72 (1972).

6. Claims 12-22 are rejected under 35 U.S.C. § 101, because claims are directed to program per se. Independent claim 12 is claiming a computer program per se and functional descriptive material consisting of data structures and computer programs, which impart functionality when employed as a computer component. As such, the claims are not limited to statutory subject matter and are therefore non-statutory.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 2164

invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 4-12, 15-17, 19, 21,22, 25, 28, 29, and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sankaran et al. (US Patent 5,832,484) hereinafter Sankaran, and in view of Bangel et al. (US Patent 6,901,401) hereinafter Bangel.

9. As per independent claims 1, 12, 25, 35, Sankaran teaches a database system and method for improving scalability of multi-user database systems by improving management of locks used in the system (see abstract). Sankaran teaches the claimed, detecting, by a computer, a new query for a set of database records (col. 2, lines 28-30). Sankaran does not explicitly teach checking authorization. However, Bangel teaches the claimed, determining whether a user that submitted the new query is authorized to acquire a new lock on the set of database records, wherein the user is authorized if the user does not have a conflict of interest with respect to the set of database records (Fig. 3, col. 4, lines 46-49). Bangel teaches the claimed, denying the

Art Unit: 2164

new lock if the user is not authorized (Fig 3, col. 4, lines 49-53). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combine the teachings of the cited references because Bangel's teachings would have allowed Sankaran's system and method in which unauthorized users are prevented from using a database stored on computer system while still allowing authorized users to make modifications to the database (col. 1, lines 62-67). Sankaran teaches the claimed, set the new lock attempting to set the new lock if the user is authorized (Fig. 4A-B, col. 15, lines 37-42).

10. As per dependent claim 4, 15, 28, Sankaran and Bangel combined teaches claim 1. Bangel teaches the claimed, informing the user that the user cannot access the set of database records when the user is not authorized (Fig 3, col. 4, lines 49-53). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combine the teachings of the cited references because Bangel's teachings would have allowed Sankaran's system and method in which unauthorized users are prevented from using a database stored on computer system while still allowing authorized users to make modifications to the database (col. 1, lines 62-67).

11. As per dependent claims 5-6, 16-17, 29, Sankaran teaches the claimed, permitting access to the set of database records if user is authorized (col. 23, lines 28-31).

Art Unit: 2164

12. As per dependent claims 7-9, 18-20, 37-38, Bangel teaches the claimed, determining whether the user is authorized further includes determining whether user has write authorization for the set of database records (Fig 3, col. 4, lines 49-53). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combine the teachings of the cited references because Bangel's teachings would have allowed Sankaran's system and method in which unauthorized users are prevented from using a database stored on computer system while still allowing authorized users to make modifications to the database (col. 1, lines 62-67).

13. As per dependent claims 10-11, 21-22, Sankaran teaches the claimed, determining whether the user is authorized includes whether the user is currently authorized (col. 2, lines 3-8).

14. As per dependent claim 36, Sankaran teaches the claimed, set the new lock attempting to set the new lock if the user is authorized (Fig. 4A-B, col. 15, lines 37-42).

Response to Arguments

15. Applicant's arguments filed 5/24/2007 have been fully considered but they are not persuasive and details as follows:

- a) Applicant's argument cited as "USPTO Memorandum from Margaret A. Focarino, Deputy Commissioner for Patent Operations, May 3, 2007, page 2."

In response to Applicant's argument, Examiner respectfully would like to inform that Applicant accessing internal memorandum is illegal.

- b) Applicant did not overcome 35 U.S.C. 101 rejection and did not attempt properly even after amending claims.

- c) Applicant's argument stated as "To establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all of the claim elements."

In response to applicant's argument on pages 15, a *prima facie case of obviousness* is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. Once such a case is established, it is incumbent upon appellant to go forward with objective evidence of unobviousness. In re Fielder, 471 F.2d 640, 176 USPQ 300 (CCPA 1973).

Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification.

Interpretation of Claims-Broadest Reasonable Interpretation

During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a):

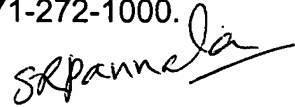
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (571) 272-4115. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2164

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Sathyanarayan Pannala
Primary Examiner

srp
August 2, 2007